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DEPARTMENT OF STATE

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DIVISION OF PROFESSIONAL REGULATION

<b>PUBLIC MEETING NOTICE:</b>	<b>BOARD OF NURSING Meeting Minutes</b>
<b>DATE AND TIME:</b>	<b>Wednesday, May 8, 2013 at 9:00 a.m.</b>
<b>PLACE:</b>	<b>Cannon Building, Second Floor Conference Room A 861 Silver Lake Blvd., Dover, DE 19904</b>
<b>Minutes Approved:</b>	<b>June 12, 2013</b>

### **MEMBERS PRESENT**

Evelyn Nicholson, President, Public Member  
Robert Contino, RN, Vice President, Nurse Education Member  
Kathy Bradley, LPN Member  
Dianne Halpern, RN Member  
Robert Maddex, Public Member  
Madelyn Nellius, Public Member  
David Salati, RN Member  
Tracy Littleton, LPN Member  
Delphos Price, APN Member  
Harland Sanders, Jr., Public Member  
Mary Lomax, Public Member

### **DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT**

Pamela Zickafoose, Executive Director  
Sheryl Paquette, Board Liaison  
Patty Davis-Oliva, Deputy Attorney General

### **MEMBERS ABSENT**

Pamela Tyranski, RN Member  
Lyron Deputy, RN Member

### **ALSO PRESENT**

Lorena Hartnett, Wilcox and Fetzer  
Joseph Porter, Esquire  
Dr. Laurie Nagelsmith  
Dr. Larry Pursell  
Dion D. Davis  
Philip Fisher  
Diane Schepens  
Amy Miley  
Debra Demopoulus Sub  
Mariya Zimenhsobson  
Kyle Perry  
Breann Davidson  
Suzanne Raab-Long

Tammy Paxton, DTCC, Owens Campus  
Joann Baker  
Connie Bushey, M.H. Rollins School of Nursing at Beebe Medical Center  
Pat Welsh, DTCC  
Barbara J. Robinson, Leads School  
Paul Njoroge  
Kimberly S. Paul

Ms. Nicholson called the meeting to order at 9:05 a.m. The Board introduced themselves to the public.

### **REVIEW OF MINUTES (April 10, 2013)**

The Board reviewed the minutes of the April 10, 2013 meeting. Mr. Price made a correction on page 2. He asked to have a change made from “students must complete clinical in their home states” to “if students choose to do clinical in their home states they must find their own clinical sites.” Mr. Sanders made a motion, seconded by Ms. Nellius, to approve the minutes as corrected. By majority vote, the motion carried, with Mr. Maddex and Dr. Lomax abstaining.

### **REVIEW OF MINUTES (April 17, 2013)**

The Board reviewed the minutes of the April 17, 2013 meeting. Ms. Nicholson asked that the first word on line 4 be corrected to have a capital ‘B’. Mr. Price made a motion, seconded by Ms. Halpern, to approve the minutes as corrected. By majority vote, the motion carried, with Dr. Lomax abstaining.

### **ADOPTION OF THE AMENDED AGENDA**

Mr. Price made a motion, seconded by Mr. Maddex, to adopt the agenda as amended. By unanimous vote, the motion carried.

### **ACTIVITIES REPORT**

Dr. Zickafoose provided a report of the number and types of active licenses as of May 7, 2013.

Total Active Licenses = 20,433  
APN = 1298  
RN = 16,132  
LPN = 3003  
Total permits= 27

### **UNFINISHED BUSINESS**

#### **Excelsior Presentation**

Mr. Joseph Porter, General Council for Excelsior College and Dr. Laurie Nagelsmith, Associate Dean of the School of Nursing of Excelsior College of Albany, New York both gave presentations to the Board. Mr. Porter said they wanted to accomplish three things:

- Provide additional information about Excelsior College and how it relates to Regents College.
- Give an overview of the Associate Degree in Nursing program, which is actually not an online learning program, but a competency based, distance education program that has been designed for working adults - experienced folks with healthcare experience.
- Make the Board more aware of the 102 students in the state of Delaware currently enrolled in their program and ask the Board to reflect a little more about the implications of their recent decision on those students.

A PowerPoint presentation was shown to the Board and the Board members asked questions of the Excelsior guests. At 10:15 A.M. Ms. Nicholson thanked Dr. Nagelsmith and Mr. Porter for sharing their

information, and the two presenters left the meeting. After much discussion among the Board members, Mr. Maddex made a motion, seconded by Dr. Contino, to accept graduates from Excelsior College up until January 31, 2014, waiving the disqualifying factor that Excelsior is not a Delaware Board of Nursing approved program at this time. By majority vote, the motion carried, with Ms. Halpern voting 'no', and Mr. Price and Dr. Lomax abstaining.

Proposed Regulation Change Conclusion (Rules 14.2.1.5 and 14.2.1.6)

Ms. Davis-Oliva said the proposed regulation change for Rules 14.2.1.5 and 14.2.1.6 was posted in the Register of Regulations on January 1, 2013. This regulation will change the time period by which a compact state applicant must change their licensure status to their home state address from the current 30 days to 90 days. The proposed change was posted January 1, 2013, and was held open for 30 days from that date for written public comment. No written comments were received. At the February 13, 2013 meeting the Board of Nursing held a public hearing; no public comments were given. A written comment period was open for an additional 15 days as required by statute, and no written comments were received. Now that the comment period is over, the Board held deliberations. Dr. Contino made a motion, seconded by Ms. Bradley, to adopt the amendments as proposed. By unanimous vote, the motion carried. Ms. Davis-Oliva said the order will have to be republished in the June 1, 2013 Register of Regulations and the change will go into effect June 11, 2013.

**COMMITTEE REPORTS**

APN Committee – Mr. Price said the committee held a meeting on April 30<sup>th</sup>. At that meeting the committee discussed a letter sent by the Board of Medical Licensure and Discipline stating that they do not agree with the changes the committee has put into place. Mr. Price said the word 'collaborative' is one of the issues being discussed. Dr. Zickafoose said the committee has agreed to make changes to the statute by adding two statements in the current draft trying to address the BMLD's concerns. This revised draft will be shared again with the Board of Medical Licensure and Discipline. APN Committee members will be going to Legislative Hall on May 14 to meet with legislators on the Health and Welfare Committee to discuss the Consensus Model.

AWSAM Committee – Dr. Zickafoose said the committee hasn't met as they are waiting on the curriculum revisions. The Curriculum Sub-Committee met on April 24<sup>th</sup> and they are working on the revisions. There was a request by the DDS groups of Delaware to utilize an online medication curriculum which the AWSAM committee will review. It was thought that the online curriculum might be fine for DDS as a means for their 'module' specific areas but not acceptable for the overall core curriculum for all programs. The next meeting of the sub-committee is scheduled for May 9<sup>th</sup> at 4:30 p.m.

**PRESIDENT'S REPORT**

Ms. Nicholson gave the following report.

"On behalf of all the members of the Board, I should like to take this opportunity during National Nurses Week to acknowledge all the nurses in our country. We give special acknowledgement and heartfelt thanks to those nurses in Boston who responded so professionally, so tirelessly, and with such caring during the most recent, horrible attack there. We also give special acknowledgement to all the nurses in Delaware. We are very proud of our state's nurses and we greatly appreciate their vital role in providing the citizens of Delaware with excellent health care.

"I also wish to give a special "thank you" to the professional nurse members of our Board. The knowledge and expertise that these members bring to the Board is invaluable, and the dedication and service that they give to the Board is greatly appreciated. Thank you all.

“In recognition of National Nurses Week, for the very first time, the magazine *Delaware Today* partnered with the Delaware Nurses Association to establish “The Excellence in Nursing Awards” which recognized nurses who exemplify excellence in their areas of practice. We commend *Delaware Today* and the Delaware Nurses Association for establishing the awards and we congratulate Dr. Pamela Zickafoose and Mr. Delphos Price for being named “Honorable Mention Winners.” All of the Board members are very proud of them and we are happy that they have received the recognition they so richly deserve.

“Also, for the record, I want to note that it was necessary to hold an emergency meeting of the Board on April 17, 2013. I should like to publicly thank all of the members of the Board for responding so quickly to the “Call to Duty.” I greatly appreciate the extra time and service given by the members, who by their attendance made it possible for us to have a quorum and, thereby, conduct the meeting. It should be understood that those members who did not attend the meeting were unable to do so because of their work schedules or because of personal scheduling conflicts. Their absence certainly was not due to any lack of dedication. Again, thank you to those of you who did attend the meeting.”

### **EXECUTIVE DIRECTOR’S REPORT**

No report was given.

### **NEW BUSINESS BEFORE THE BOARD**

#### **LICENSEE APPLICATION REVIEWS**

#### **By Examination**

Dion Davis, LPN – Mr. Davis graduated from Excelsior College, Albany, NY in April 2013. His CBC showed four counts of Theft (Rule 15.3.16), and two counts of Theft False Pretense (Rule 15.3.18). Mr. Davis answered ‘yes’ to question #16, “Have any of your Nursing licenses been disciplined, etc.,” and gave ‘DE, TX, OK’ as the states where this had happened. He answered ‘yes’ to question #19 and stated, “Fraudulent Representation, received a Governor’s Pardon for same in 1994.” Disposition paperwork was submitted, but a letter of explanation and references were not. Mr. Price made a motion, seconded by Ms. Nellius, to grant a waiver for Mr. Davis to sit for the NCLEX exam. By unanimous vote, the motion carried.

#### **By Endorsement**

Debra Behun, LPN – Ms. Behun graduated from Reading-Muhlenberg Vo-Tech School, Muhlenberg, PA in August 1974. Her letter of explanation stated that she recently relocated from Pennsylvania where she and her husband shared a business for 30 years. It further stated that she has kept her license in Pennsylvania active. She explained she would like to work in a doctor’s office in Delaware and has been told she needs to take a refresher course. After checking into this she said DTCC is the only place the course is offered; however, they are not offering it until the Fall of 2013, or the Spring of 2014. She requested approval for a supervised practice plan to be able to start working immediately. No letters of reference were submitted. Ms. Halpern noted that on question #21 of her application Ms. Behun wrote that she completed 24 CE’s; however, on question #22 she wrote ‘none’ when asked for a list of CE’s that were completed in the past two years. The Board had concerns about other responses to questions on her application. Mr. Price talked about the letter Ms. Behun submitted stating she could work in a doctor’s office. Ms. Davis-Oliva said a doctor’s office is not appropriate for a supervised practice plan per Rules 4.3.1 and 6.5.1.8. Ms. Halpern made a motion, seconded by Ms. Bradley, to propose to deny licensure by endorsement with the right of the applicant to a hearing. By unanimous vote, the motion carried.

Susan Devos, RN – Ms. Devos graduated from Grand Rapids Community College, Grand Rapids, MI in May 1987. Her criminal background showed previous discipline in Michigan. Ms. Devos sent in three letters of explanation; one dated 3/22/13, and the other two dated 3/23/13. Ms. Devos explained that in August 1995 she was issued a restricted nursing license. She said she was able to work as a nurse, in a supervisory position, but was restricted regarding controlled substance medications. She said she was taking prescription medication for back pain but was ‘reckless’ with it. Several Board members discussed that Ms. Devos never mentioned in any of her letters that she was put on probation in Michigan. Ms. Halpern said question #25 asked the applicant if she had ever been dependent on habit forming drugs and alcohol, to which she responded ‘no’; however, her letters talked about being ‘reckless’ where this was concerned. Dr. Contino asked why Ms. Devos would be required to do drug and alcohol testing if this were not the case. Mr. Sanders made a motion, seconded by Ms. Nellius, to propose to deny licensure by endorsement with the right to the applicant to a hearing. By unanimous vote, the motion carried.

**By Reinstatement**

Lynn Carmichael, RN – No reference form was supplied by Ms. Carmichael. A letter of explanation stated Ms. Carmichael was hired by Williamsville Wellness as an RN; however, a call regarding her employment there confirmed she was not employed in that position. Also, her application listed Michigan as one of the states she was licensed in, but left out Ohio where she also was licensed. Evaluations were sent in for CE’s, but not the actual CE documents, and they were too old to be considered. Mr. Salati made a motion, seconded by Mr. Sanders, to propose to deny licensure by reinstatement with the right to the applicant for a hearing. This decision was based on incorrect information on the application and lack of proof of CE’s earned. By unanimous vote, the motion carried.

**Advanced Practice Nurse**

None

**Renewal**

None

**COMPLAINT ASSIGNMENTS/ASSIGNED BOARD CONTACT PERSON**

Dr. Lomax made a motion, seconded by Ms. Halpern, to ratify the following complaint assignments given to the respective Board contact person. By unanimous vote, the motion passed.

11-15-13 Sanders	11-16-13 Halpern	11-17-13 Salati	11-18-13 Deputy
11-19-13 Bradley	11-20-13 Bradley	11-21-13 Price	11-22-13 Nellius
11-23-13 Tyranski	11-24-13 Littleton	11-25-13 Salati	11-26-13 Hines
11-27-13 Hines	11-28-13 Sanders	11-29-13 Price	11-30-13 Littleton
11-31-13 Hines			

With the resignation of Ms. Hines, complaints 11-26-13, 11-27-13, and 11-31-13 were reassigned as of this date to Ms. Nellius.

**CLOSED COMPLAINTS**

Closed complaints do not need a vote; they are for information only to get into the record.

**Dismissed by the Attorney General’s Office.**

11-72-12

**Closed Investigations by the Division of Professional Regulation**

11-33-12 11-06-13 11-85-12

## **HEARINGS/CONSENT AGREEMENTS – RATIFICATION & SIGNATURE**

### **Consent Agreement(s)**

Tamar Hirshberg, RN – Ms. Davis-Oliva read the consent agreement for the Board which stated that from September 2009 to March 2011 Ms. Hirshberg wrote prescriptions for controlled substances without prescriptive authority or a Delaware Controlled Substances Registration Number. She did, however, possess a federal DEA number. Dr. Contino made a motion, seconded by Mr. Maddex, to accept the consent agreement as written. By majority vote, the motion carried, with Ms. Halpern recused.

Malinda Kragh, RN – Ms. Davis-Oliva read the consent agreement for the Board. At the Board's March 2013 meeting, an emergency suspension was issued pending the outcome of criminal charges against Ms. Kragh. A consent agreement now has been issued extending the time period indefinitely, pending the resolution of the charges. Mr. Price made a motion, seconded by Mr. Maddex, to accept the consent agreement as written. By majority vote, the motion carried, with Ms. Halpern recused.

### **Appointment of Hearing Panel #14**

Ms. Nicholson thanked Hearing Panel #13, Mr. Deputy, Ms. Bradley, and Mr. Sanders, for their service. She then nominated Hearing Panel #14 with Dr. Contino as chairperson, and Mr. Salati and Mr. Maddex as members. The new Hearing Panel will serve for May, June, and July. Dr. Lomax made a motion to accept the nominations, seconded by Ms. Nellius. By unanimous vote, the motion carried.

### **Hearing Officer Recommendations**

Michele Logan, RN – Ms. Davis-Oliva summarized the Hearing Officer Recommendation for the Board. The recommendation stated Ms. Logan used and diverted drugs, and plead guilty for theft. From March 2009 until April 2009 she diverted drugs from her employer. She entered a Superior Court drug diversion program, with no positive drug screens since 2009. Ms. Nicholson suggested a minor correction to Page 20 #12, to include the word 'may' prior to 'make a written statement'. Ms. Halpern asked if there were any conditions in the recommendation that would not allow Ms. Logan to have access to controlled substances. Ms. Davis-Oliva said the Board can recommend that be included. Ms. Nellius made a motion, seconded by Dr. Lomax, to amend the Hearing Officer Recommendation to include wording that Ms. Logan not have access to, or the ability to administer, controlled substances while on probation, and to include the word 'may' as suggested above. By majority vote, the motion carried, with Mr. Salati recused.

Josephine Obonyo, RN – Ms. Davis-Oliva summarized the Hearing Officer Recommendation for the Board. The recommendation stated that while employed in an Alzheimer's Unit on May 1, 2011, Ms. Obonyo improperly identified a patient, and administered the wrong medication, with hospitalization occurring as a result. Ms. Obonyo then improperly recorded the time this occurred on the MAR. The violations that were found were; failing to follow procedures in place, and falsification of patient records. The recommended penalty is a letter of reprimand and 3 additional CE's in Medicine Administration and 3 CE's in Nursing Ethics. Ms. Halpern asked if every patient there was supposed to have a wristband with their picture on it, and Mr. Salati said they have wristbands with their names on them, but their pictures are on the MAR's. Ms. Nicholson said the pictures can sometimes be out of date. Mr. Salati said Ms. Obonyo was on an unfamiliar unit, was relying on people to help identify the patients there, and he felt she did her best. Ms. Halpern asked why Ms. Obonyo was only getting a letter of reprimand, and Mr. Price said a letter of reprimand will follow her for the rest of her life. Mr. Sanders made a

motion, seconded by Mr. Salati, to accept the Hearing Officer Recommendation as written. By unanimous vote, the motion carried.

Busurat Adesanya, LPN – Ms. Davis-Oliva summarized the Hearing Officer Recommendation for the Board. The recommendation stated that on the evening of July 2, 2011 Ms. Adesanya was tasked with serving in a home for a terminally ill two-month old child who required around the clock care and monitoring. Her primary responsibility was to monitor and report the child's respiration and other vital information at least hourly. The Hearing Officer Recommendation concluded that around 3:00 a.m. the mother came into the child's room and found Ms. Adesanya asleep. It continues to state that no notations were made at 2:00 a.m. or 3:00 a.m., and that the last notation made was at 1:00 a.m. The recommended discipline is suspension of Ms. Adesanya's LPN license for one year, followed by one year probation. During the suspension Ms. Adesanya must earn 3 CE's in Ethics, and 3 CE's in Critical Patient Care. She is required to petition the Board at the end of the suspension to have it lifted. Ms. Davis-Oliva said exceptions to the Hearing Officer were provided to the Board for review. Ms. Adesanya's exceptions give a step-by-step account of what happened, and stated that she learned her lesson regarding her procrastination in documenting data. She stated in her exception that she was awake at the time and indicated that she is not a fraudulent person. Mr. Salati said he felt Ms. Adesanya brought up a couple of valid points in her exception. He said he feels parents are tuned in to their children at times like this and can't imagine a parent coming into a room, finding the nurse asleep, and not waking her up if she was sleeping. He mentioned also that the mother declined to speak with the investigator and refused to testify at the hearing. There was considerable discussion regarding this. Board members felt the records were memorializing 'hearsay' evidence from the mother. Ms. Davis-Oliva said 'hearsay' evidence is admissible; however, the Board cannot base their decision on it. The Board decided to postpone discussion of the Hearing Officer Recommendation until the June 12<sup>th</sup> meeting while Ms. Davis-Oliva researched this issue.

Maureen Szmyd, LPN – Ms. Davis-Oliva summarized the Hearing Officer Recommendation for the Board. Two complaints were heard in one hearing. The recommendation stated that on March 6, 2012 Ms. Szmyd was impaired while practicing nursing after testing positive for Marijuana and two controlled substances. She was observed as fatigued and dozing on the job. She was found unfit to practice nursing due to addiction. With regard to the second complaint, as an LPN Ms. Szmyrd does not have prescriptive authority; however, she countermanded the Express Scripts prescriptive order of a treating cardiologist when she suggested a person engage in an oxygen pre-trial, in direct contradiction of the posted physician's order. This practice was found to be a deviation from the standard of care and unprofessional conduct. Recommended discipline for the two complaints combined are a two year suspension, after which she can petition for reinstatement after one year, if she can show that she has made an appointment with a drug treatment evaluator and then follows a course of treatment, if any are recommended. She must also sign a release for the Board to get documentation, and submit for random urine tests every 90 days. Following the suspension when it is lifted by this Board, she'll go on probation for a period of at least two years, which will run concurrent with employment. She must also keep the Executive Director updated with her current address. She also needs to arrange for her nursing supervisor reports to be sent to the Executive Director, and she'll need to take additional CE's. Any violations will result in further discipline by the Board. Dr. Contino made a motion, seconded by Ms. Bradley, to accept the Hearing Office Recommendation as written. By majority vote, the motion carried, with Ms. Sanders recused.

Charles Morgan, LPN, Akua Diawuo, LPN, Katherine Sanders, RN, Chizorom Anyuanwu, LPN – Ms. Davis-Oliva summarized the Hearing Officer Recommendation for the Board. The hearing was about a Department of Corrections complaint and no discipline has been recommended by the Hearing Officer. Mr. Price made a motion, seconded by Ms. Littleton, to accept the Hearing Officer Recommendation as written. By majority vote, the motion carried, with Mr. Salati recused.

Jean Binkley, APN – Ms. Davis-Oliva summarized the Hearing Officer Recommendation for the Board. She said this is a complaint that was prosecuted before the Hearing Officer. The licensee is an APN. The allegations in the complaint were regarding the licensee prescribing controlled substances. After a 14-day hearing the Hearing Officer issued a 272-page Hearing Office Recommendation. The recommendation then went to the Joint Practice Committee because the statute indicates they are the disciplining body for Advanced Practice Nurses when allegations are solely based in the prescribing practices. The Joint Practice Committee issued an opinion to the Board of Nursing. The Joint Practice Committee recommended discipline that was different than what the Hearing Office recommended, but they wanted to be clear that their decision applies to the APN license only, and not Ms. Binkley's RN license. Ms. Davis-Oliva advised the Board with regard to their finding that Ms. Binkley's RN license is not implicated in these practices, if they find that the Joint Practice Committee's decision is not contrary to state and federal laws, and is not arbitrary or capricious. Ms. Bradley said she was confident in the Joint Practice Committee's decision. Ms. Halpern agreed that Ms. Binkley's RN license is out of jurisdiction and that it is not in question. Mr. Maddex made a motion, seconded by Dr. Lomax, which finds that the Joint Practice Committee's decision is not contrary to state or federal laws or regulation, and is supported by substantial evidence and is not arbitrary or capricious. By majority vote, the motion carried, with Mr. Price recused.

#### **DISCIPLINARY HEARINGS**

None

#### **LEGISLATIVE UPDATE**

##### Emergency Temporary Suspension Update

Ms. Nicholson asked Ms. Davis-Oliva if there has been any movement on this proposed legislation. Dr. Zickafoose said she was told the legislation had not been introduced as of yet. Mr. Maddex asked if anyone knew who might introduce it from the Legislature. Ms. Nicholson thought it might be Senator Henry. She also suggested Ms. Rebecca Walker.

##### Drug Diversion

Ms. Davis-Oliva said a new criminal charge is being developed regarding drug diversion that would be considered a felony. She said there are currently six other states that have this legislation.

##### Violence Bill

Dr. Zickafoose said the DNA is working on their violence bill. The legislation pertains to when a patient is violent and acts out against the nurse caring for that person; with exceptions to persons with mental disorders. A felony criminal charge is recommended for this bill.

#### **REVIEW OF COMPLIANCE**

Katheryn Burns, LPN – Dr. Zickafoose informed the Board that Ms. Burns was in compliance with her Board Order signed May 12, 2010. Ms. Burns notified the Board of one change of address. She has participated in support groups and has supplied two years of quarterly reports but this year her sponsor had passed away. Ms. Burns said she hasn't been able to get another sponsor as of yet, but continues to attend meetings and has had drug testing. Ms. Burns currently works for the Delaware Psychiatric Center and has been there for 19 years. She sent in two positive letters of reference and attested that she has been sober for the past 5 years. Dr. Zickafoose recommended that the Board lift the conditions that were required of Ms. Burns and restore her license. Mr. Price made a motion, seconded by Ms. Halpern, to lift the conditions on Ms. Burns' license since she is in compliance. By unanimous vote, the motion carried.

Christina Jilek-Olachea, RN – Dr. Zickafoose said Ms. Jilek-Olachea failed to report she had a criminal conviction on her license renewal in both 2009 and 2011. She was issued a letter of reprimand and was required to complete continuing education in Ethics. The order was signed in May 2012 and entered into NURSYS. She has completed a 3 credit course at Wilmington University in Bio-Ethics in Nursing, which is equivalent to 15 CE's, when she was only required to earn 6 CE's. Dr. Zickafoose said Ms. Jilek-Olachea has satisfied her requirements and recommended restoring her license. Dr. Contino made a motion, seconded by Ms. Bradley, to restore Ms. Jilek-Olachea's license. By unanimous vote, the motion carried.

### **PRACTICE WITHOUT LICENSURE REVIEWS**

None

### **PRACTICE ISSUES**

#### Licensure versus Practice (Job Description) Policy

Dr. Zickafoose said she has received numerous calls regarding a new job policy that is being implemented at Beebe Medical Center that requires nurses to disclose any additional nursing education or licensure obtained with a resultant termination from their current role. For example, a LPN who goes back to school must resign once the RN education is completed. Further, a RN who goes back to school for an advanced practice degree will not be allowed to practice in a basic RN role. Dr. Zickafoose expressed concern over this second practice because the RN license is a requirement for APN licensure and she felt strongly that nurses should have the ability to choose which job position they would accept and perform. It would be the nurse's responsibility to practice within the scope of practice for the role being performed. Mr. Price said it's important that they practice at that scope of practice and not go into the APN scope of practice. If you exceed your scope of practice in any situation and take that step to make an APN decision, then you have now breached both. Dr. Zickafoose added that she asks the nurse to refer to the job description and see what license is required. There is nothing in the Board's Rules or Regulations that prohibits nurses from working in positions below their level of education. Dr. Zickafoose said she will continue to answer the way she has in the past, which is, "It is not recommended and you will be held legally accountable to the highest level of license that you hold. Organizations have the purview to make their own policies." Other hospitals in the state also are adopting similar policies.

### **EDUCATIONAL ISSUES**

#### Delcastle High School Letter

Dr. Contino read a letter from Janet M. West, RN, MSN, dated March 19, 2013, from Delcastle Technical High School that the Delcastle Practical Nursing Program will be closing effective June 30, 2013. The last class will be completed May 2013. All records will be housed in the Delcastle High School guidance department. Records for the Adult Practical Nursing Program will be housed at the Delaware Skills Center.

#### Camtech

Ms. Davis-Oliva said Camtech filed an appeal of the Board's decision to withdraw their approved status. They informed us they will be requesting a stay from the court and we will be opposing that stay request.

#### Superior Court Appeal (Ms. Madhu Jain)

Ms. Davis-Oliva said Ms. Jain filed an appeal of the decision of the Superior Court, that upheld the Board's disciplinary decision, with the Delaware Supreme Court. A briefing on that should be finished in early summer.

**LICENSURE ISSUES**

Dr. Zickafoose said there is an applicant for licensure that does not have a current active license. Our Rules and Regulations state that if you've been out of practice more than five years, you are required to take a refresher course or do a Supervised Practice Plan. She said occasionally there is a situation where a person has a compact licensure; they live in another state and know they will be moving to Delaware, but they don't get here in time, and their license has lapsed and they haven't gotten their Delaware license yet. Technically, they don't have an active license for licensure. Our credentialing person, Ms. Jennifer Childears, is on the National Council Licensure Compact Committee. The committee did a survey which asked, "Does your state board require an applicant for licensure by endorsement hold a current license in another jurisdiction at the time of application?" Dr. Zickafoose read the results of the survey, and said a few cases have been brought before the Board in the past when the applicants didn't have an active license and they were granted waivers. Ms. Nellius said the fact they are coming by endorsement does imply they have an active license somewhere else. Dr. Contino said sometimes you can put a license in inactive status. He said if an applicant applies in another state they can go back and look at that. Dr. Zickafoose said in the database an inactive status means they can reinstate or reapply, but if the applicant ever had a license in Delaware they would have to reinstate; endorsement would be when an applicant is coming to our state from another state. The Board made the decision that these applications would still come before the Board for review.

**NCSBN**

None

**LICENSEE RATIFICATION**

Mr. Price made a motion, seconded by Mr. Maddex, to ratify the licensee list. By unanimous vote, the motion carried. The ratification list is attached at the end of the minutes.

**PUBLIC COMMENT**

Ms. Paxton talked about the LPN refresher course. She said the school tries to make it available but sometimes applicants don't see it through. She said they can take the online course, but must be present for the lab and clinical portions of the course.

Ms. Bushey thanked the Board for making the meeting interesting for the students that attend.

Ms. Robinson said the meeting was informative. She said she tells her nursing students not to give out medication unless they see picture IDs. She said pictures sometimes can look different in the charts. The bottom line is, if they don't have ID, they don't get medication.

**NEXT SCHEDULED MEETING**

June 12, 2013 - 9:00 a.m.  
861 Silver Lake Blvd., Cannon Building, Conference Room A, Dover, DE 19904.

**ADJOURNMENT**

The meeting adjourned at 2:52 p.m.

Respectfully Submitted,



Pamela C. Zickafoose, EdD, MSN, RN, NE-BC, CNE  
Executive Director, Delaware Board of Nursing

**RULES & REGULATIONS PUBLIC HEARING – 1:00 P.M.**

The Delaware Board of Nursing held a Rules and Regulations hearing on May 8, 2013, at 1:13 p.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

**PRESENT:** Evelyn Nicholson, Robert Contino, Kathy Bradley, Diane Halpern, Mary Lomax, Madelyn Nelliuss, David Salati, Tracy Littleton, Robert Maddex, Delphos Price, Harland Sanders

**RECUSED:** None

**EXCUSED:** Lyron Deputy, Pamela Tyranski

**PURPOSE:** The Delaware Board of Nursing pursuant to 24 Del. C. §1904(c), proposes to revise Regulation 6.4 to add a new section, 6.4.6. The proposed addition permits graduates of out-of-state programs that may not have attained Board approved status to obtain licensure by examination if, at the time of submission of the application, the Board finds that the content of the out-of-state program is equivalent to the minimum requirements of the Board for full approval status established by these regulations. There is also an addition to the title of Regulation 6.4, reflecting this addition.

**PRESIDING:** Evelyn Nicholson, President

**DIVISION STAFF:** Dr. Pamela Zickafoose, Executive Director  
Sheryl Paquette, Nursing Board Liaison

**BOARD COUNSEL:** Patty Davis-Oliva, Deputy Attorney General

**COURT REPORTER:** Lorena Hartnett, Wilcox and Fetzer

The hearing began at 1:13 p.m. Ms. Davis-Oliva said the purpose of this hearing is for the Board to consider adoption of the proposed amendments to the Board's regulations. The amendments, if approved, will become part of the Board's final Rules and Regulations. Pursuant to the Administrative Procedures Act at 29 Del. C. §10115 notice of the proposed amendments to the Rules and Regulations was published in the April 1, 2013 Delaware Register of Regulations. Ms. Davis-Oliva marked collectively as Exhibit #1, affidavits of publication from the Delaware State News and the News Journal advertising today's public hearing. No written comments were received and there were no public comments. Ms. Nicholson said she had an editorial change only. She requested line 2.6.4.6, line 2, the 3<sup>rd</sup> word needed the 'b' in 'Board' capitalized. Ms. Davis-Oliva said pursuant to 29 Del. C. §10118(a) the public comment period will remain open for 15 days, and written comments will be accepted by the Board 15 days after today's date. The Board will deliberate on any comments received at its next regularly scheduled meeting. The hearing concluded at 1:22 p.m.

## **HEARING MINUTES**

### **HEARING – Kimberly Paul, RN**

The Delaware Board of Nursing held a hearing on May 8, 2013, at 1:25 p.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

**PRESENT:** Evelyn Nicholson, Robert Contino, Kathy Bradley, Diane Halpern, Mary Lomax, Madelyn Nellius, David Salati, Tracy Littleton, Robert Maddex, Delphos Price, Harland Sanders

**RECUSED:** None

**EXCUSED:** Lyron Deputy, Pamela Tyranski

**PURPOSE:** Propose to Deny

**PRESIDING:** Evelyn Nicholson, President

**BOARD STAFF:** Pamela Zickafoose, Executive Director of Nursing  
Sheryl Paquette, Nursing Board Liaison

**DEPUTY ATTORNEY GENERAL FOR THE BOARD:** Patty Davis-Oliva, DAG

**DEPUTY ATTORNEY GENERAL FOR THE STATE:**

**RESPONDENT:** Kimberly Paul

**COUNSEL FOR THE RESPONDENT:** None

**WITNESSES FOR THE STATE:** None

**WITNESSES FOR THE RESPONDENT:** None

**COURT REPORTER PRESENT:** Lorena Hartnett, Wilcox and Fetzer

**TIME STARTED:** 1:25 p.m.

The recorder took verbatim testimony. The Board members introduced themselves. Ms. Davis-Oliva described the reason for the hearing and confirmed Ms. Paul was present. Ms. Davis-Oliva asked Ms. Paul to return to the seating in the audience while the Board discussed the case and the hearing went off the record at 1:27 p.m.

Ms. Davis-Oliva said the Board had previously reviewed Ms. Paul's application for reinstatement and proposed to deny it on the basis that it was missing the employment verification. There was an employment verification that came back for a two-month time period in 2009, where the employer verified the employment term but indicated that they would not re-hire Ms. Paul without recommendation based on performance or tenure at Bayhealth. It was this missing verification and two-month attestation that formed the basis of the decision for the Proposal to Deny. Yesterday, the Board received a positive verification for the one that was missing that covered a year and four month time period. Ms. Davis-Oliva asked the Board if they wanted to proceed on the basis of the two-month attestation indicating not to re-hire. She explained the Board can grant the waiver based on the documents and not hold a hearing. Mr. Price asked if the recent one that came in is more current. Ms. Davis-Oliva said it was from 2007 to 2008. Dr. Zickafoose said there is a positive employer verification from 2011, but it doesn't cover the full six months. Dr. Contino made a motion, seconded by

Ms. Littleton, to suspend the hearing for Ms. Paul, and further to grant her a waiver for licensure by reinstatement. By unanimous vote, the motion carried.

### **HEARING MINUTES**

The hearing scheduled today for Mr. Paul Njoroge, LPN was canceled on the advice of Ms. Davis-Oliva. Mr. Njoroge presented documents that his criminal charges were dismissed and the DAG for the State dismissed the case.

## Licensee Ratification Listings (for RN's, LPN's, and APN's)

### May 2013 Licensee Listing – RN's (113)

L1-0043269	Nichols, Joseph E.	L1-0043323	Gallagher, Brigid M.
L1-0043270	Campbell, Karen S. Ralstin	L1-0043324	Golosky, Carol Lavelle
L1-0043271	Orpneck, Lauren J.	L1-0043325	Espiga, Flordeliza M. Santos
L1-0043272	Clark, Linda E. Delong	L1-0043326	Frohlich, Gayle C. Banner
L1-0043273	Fayock, Allison Renee	L1-0043327	Hinson, Isham L.
L1-0043274	Frankel, Elizabeth Frances	L1-0043328	Dorsey, Sylvia Watkins
L1-0043275	Dixon, Jelisa A.	L1-0043329	Anyanga, Lydia A.
L1-0043276	Ombao, Maria Ledhea D. Lasola	L1-0043330	Bunn, James O., Jr.
L1-0043277	Griffin, Amy L. Mason	L1-0043331	Brown, Shannon B.
L1-0043278	Baiocco, Jessica A.	L1-0043332	Makon, Bettina E.
L1-0043279	Girard, Sandra P. Maxwell	L1-0043333	Seitz, Suzanne M. Ethier
L1-0043280	Granata, Deborah A. Dewaters	L1-0043334	Griguoli, Jennifer A. Harmonosky
L1-0043281	Jahn, Suzanne Whicker	L1-0043335	Cooke, Sharon D. Homeyer
L1-0043282	Megargel, Taylor B.	L1-0043336	Collandra, Carol A.
L1-0043283	Nyambi, Paul M.	L1-0043337	Fallon, Lorraine R. Will
L1-0043284	O'Leary, Margaret E.	L1-0043338	Garcia, Melissa
L1-0043285	Yurchak, RoseAnne M. Zangardi	L1-0043339	Gerrizzo, Carmine
L1-0043286	Wilson, Kimberly J.	L1-0043340	Paul, Amanda M. Cook
L1-0043287	Nyinaku, Michael O.	L1-0043341	Lanese, Paula M. Morrison
L1-0043288	Sweetman, Jane Goed	L1-0043342	Katz, Ashton R.
L1-0043289	Cavanaugh, Marie L. Looser	L1-0043343	Chen, Tamica M.
L1-0043290	DiBari, Patricia J. Karibjanian	L1-0043344	Dumire, Jerica D.
L1-0043291	Dorfman, Margarita	L1-0043345	Hurd, Toni J. Panstingel
L1-0043292	Lambert, Sheree C. Rogers	L1-0043346	Stahl, Jennifer S. Emerick
L1-0043293	March, Alexandra M. Cernawsky	L1-0043347	Texeira, Celeste L. Jones
L1-0043294	Moore, Paul J.	L1-0043348	Williams, Tiffany A.
L1-0043295	Pinheiro, Angela M. Carl	L1-0043349	Schneider, Rachel A.
L1-0043296	Titus, Daryl R.	L1-0043350	Kolf, Marie A. Mace
L1-0043297	Moses, Thelma L. Henderson	L1-0043351	Grady, Kevin A.
L1-0043298	McCarthy, Melissa R.	L1-0043352	Derman, Carol Goetz Pashman
L1-0043299	Torres, Deanna M.	L1-0043353	Lake, Joseph J.
L1-0043300	Sheridan, Corinne M. Cichon	L1-0043354	Gramling, Greanne G.
L1-0043301	Wathen, Deborah J. Courts	L1-0043355	Sun, Hongzhe
L1-0043302	Davis, Lyssa M.	L1-0043356	Sidayon, Sherry May E.
L1-0043303	Ilardi, Simone	L1-0043357	Mills, Bethanne Hogg
L1-0043304	Louden, Lisa Bedore	L1-0043358	Moscoso, Joanne E. Villaruz
L1-0043305	Bowles, Lauren N.	L1-0043359	Mitchell, Marley R.
L1-0043306	Jacobs, Tara J. Morrison	L1-0043360	Cushing, Lindsey L.
L1-0043307	DiBuo, Donna M. Paskewicz	L1-0043361	Johnson, Karen A.
L1-0043308	Cilento, Barbara J. McDonald	L1-0043362	Johnson, Jaida R.
L1-0043309	Morrison, Julia A.	L1-0043363	Deniken, Sheila K.
L1-0043310	Phelan, Rachael F.	L1-0043364	Paine, Thelma E.
L1-0043311	Yager, Naomi I.	L1-0043365	Yoffe, Faina B.
L1-0043312	D'Andrea, Kristen L.	L1-0043366	Timney, Amanda S.
L1-0043313	Capuzzi, Marianne H.	L1-0043367	Nussbaum, Rebekah S. Case
L1-0043314	Frederick, Sandra J. Brown	L1-0043368	Lunsford, Loree A. Newton

L1-0043315	Matos, Maria D. Figueroa	L1-0043369	Candido, Jacqueline J.
L1-0043316	Wells, Shannon K. Breslin	L1-0043370	Baum, Caitlin Elizabeth
L1-0043317	McGlaughlin, Nancy E. Parisi	L1-0043371	Cheng, Margaret E.
L1-0043318	Ledbetter, Rebecca L. Minnick	L1-0043372	Chen, Dong E.
L1-0043319	Carrenard, Maryse C.	L1-0043373	Cashman, Jennifer L. Seeley
L1-0043320	Krupka, Christina M. Kocka	L1-0043374	Maddow-Zimet, Anya
L1-0043321	Vanderveer, Diane E.	L1-0043375	O'Connor, Nicole M.
L1-0043322	Guest, Eileen A. McGlynn	L1-0043376	Silver, Allison B.
L1-0043377	Schneider, Prisca N.		
L1-0043378	Wadhwa, Sanjeen		
L1-0043379	Heatwole, Dano K.		
L1-0043380	Roman, Joyce A. Patitucci		
L1-0043381	Gavin, Jacqueline A. Smith		

### **May 2013 Licensee Listing – LPN's (24)**

L2-0011978	Pleasanton, Erin L.
L2-0011979	Senatus, Michaelle
L2-0011980	Waters, Harvestina C.
L2-0011981	Anemone, Mary E.
L2-0011982	Obeng, Lydia
L2-0011983	Olayemi, Peter O.
L2-0011984	Larrieux, Rachelle
L2-0011985	Njoroge, Winnie J. Rutto
L2-0011986	Kipp, Stephanie Michelle
L2-0011987	Vick, Averill K.
L2-0011988	Ellis, Nafeesah S.
L2-0011989	Ehichioya, Abimbola
L2-0011990	Currie, Cynthia A. Mincarelli
L2-0011991	Floyd, Andrea M. Henson
L2-0011992	Ulloa, Nancy
L2-0011993	Powell, Laura M.
L2-0011994	Cummings, Ojuku M.
L2-0011995	Mack, Karen M.
L2-0011996	Kimani, Amos G.
L2-0011997	Ewobor, Tamika L. McGowan
L2-0011998	Usuah, Adebola R.
L2-0011999	Amedu, Blessing I.
L2-0012000	Joine, Nancy G.
L2-0012001	Collins, Bobbi Joetta

**APN License Listing May 2013**

Edith Dinga	CRNA
Kim Kelly	CRNA
Joseph Lake	CRNA
Susan Corey	Psyche/Mental Health CNS
Cherie Soto	FNP
Stephanie Washam	FNP
Eileen Gabrielli	FNP
Joanne Kaster	FNP
Emily Cross	FNP
Mrudula Jelish	FNP
Olofunmilayo Aiyegbo	FNP
Julie Rollins	FNP
Melissa Wallace	FNP
Trina Forney	FNP
Ryan Brown	FNP
David Gaines	FNP
Pamela Achenchi	FNP

**APN Prescriptive Authority May 2013**

**Family Nurse Practitioner**

Bridget Rose  
Jeremiah Campbell  
Reshma Singh  
Donna Hitchens  
Lisa Rossi  
Nicole Heap  
Kathleen Dressel  
Charlene Madanat  
Steffani Key  
Emily Cross  
Julie Rollins  
Trina Forney  
Melissa Wallace  
Clare Matis  
Steffani Key  
David Gaines

**Psychiatric/Mental Health Nurse Practitioner**

Ellin Wade

**Acute Care Nurse Practitioner**

Naoko Nakamura